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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/515,589	02/29/2000	Bruce W. Stelman	HELLO-05006	9820
7590	07/13/2004		EXAMINER	
Thomas B Haverstock Haverstock & Owens LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			BRINEY III, WALTER F	
			ART UNIT	PAPER NUMBER
			2644	13
DATE MAILED: 07/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/515,589	STELMAN, BRUCE W.
	Examiner Walter F Briney III	Art Unit 2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8.  The drawing correction filed on \_\_\_\_\_ is a) approved or b) disapproved by the Examiner.
9.  Note the attached Information Disclosure Statement(s) ( PTO-1449) Paper No(s). \_\_\_\_\_.
10.  Other: \_\_\_\_\_

The proposed amendments to the claims, filed 07 June 2004, will not be entered because they require further search and consideration.

With respect to claims 7, 11, 17, and 27, each now includes the limitation that the first and second communication protocols must be identified before communication can occur between the telephony switching system and the telephony appliance.

***Noncompliant Amendment***

The after final amendment, paper 12, is noncompliant for using the claim identifiers "previously amended" and "previously cancelled." Amendment practice now requires that all claims that were "previously amended" to be indicated as "previously presented" if no changes have been made to the status of the claims in the instant paper of reference. In addition, all claims listed as "previously cancelled" are to be indicated as "cancelled."

***Information Disclosure Statement***

The information disclosure statement filed 28 April 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because neither of the following conditions laid out in Chapter 609 of the MPEP has been met:

- I.) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent publication, or other information

listed that is not in the English language. The concise explanation may be either separate from applicant 's specification or incorporated therein.

- II.) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

### ***Response to Arguments***

Applicant's arguments with respect to claims 7-27, filed 07 June 2004, have been fully considered but they are not persuasive.

With respect to claim 7, the applicant alleges that Deutsch does not teach interfacing the telephone switching system with an appliance using different initialization signals (After final amendment, paper 12, page 10, second paragraph). Deutsch only teaches discovering the communication protocol of the switching network. While this is true, the applicant has failed to consider the combination of Deutsch in view of Ryu as a

whole. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant also alleges that the combination of Deutsch in view of Ryu fails to teach identifying the first and second protocols before communication commences, however, this is related to the new limitation. Therefore, it is a moot argument.

Claims 11, 17, and 27 are essentially the same as claim 7, and are treated under the same arguments.

Claims 8-10, 12-16, and 18-26 are dependent on base claims 7, 11, and 17, respectively. Because no further arguments have been presented with respect to these claims, the rejections stand.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F Briney III whose telephone number is 703-305-0347. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WFB  
7/8/04

MINSUN OH HARVEY  
PRIMARY EXAMINER